

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
<b>ENDLESS MOUNTAINS WIRELESS,</b>	)	File No. EB-05-SE-205
<b>L.L.C.</b>	)	NAL/Acct. No. 200532100012
Call Sign WPSJ792	)	FRN # 0005025663
Pennsylvania 4- Bradford RSA	)	

**ORDER**

**Adopted: September 6, 2005****Released: September 9, 2005**

By the Acting Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and Endless Mountains Wireless L.L.C. ("Endless Mountains Wireless"). The Consent Decree resolves any possible violations by Endless Mountains Wireless of Section 22.901(b) of the Commission's Rules ("Rules")<sup>1</sup> requiring provision of analog cellular service in the Pennsylvania 4 – Bradford Rural Service Area.

2. The Enforcement Bureau and Endless Mountains Wireless have negotiated the terms of a Consent Decree that would resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist with respect to this matter as to whether Endless Mountains Wireless possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,<sup>2</sup> and Sections 0.111 and 0.311 of the Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that Endless Mountains Wireless will make a voluntary contribution to the United States Treasury in the amount of twenty thousand dollars (\$20,000) within 30 calendar days after the Effective Date of the Adopting Order. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room

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<sup>1</sup> 47 C.F.R. § 20.18(d).

<sup>2</sup> 47 U.S.C. § 154(i).

<sup>3</sup> 47 C.F.R. §§ 0.111, 0.311.

1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Mr. William Schwaibold, Manager, Endless Mountains Wireless, L.L.C., 106 Cedar Court, Unit 3159, Waleska, Georgia 30183.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Acting Chief, Enforcement Bureau

## CONSENT DECREE

1. The Enforcement Bureau (the “Bureau”) of the Federal Communications Commission (the “Commission”) and ENDLESS MOUNTAINS WIRELESS, L.L.C. (“EMW”) hereby enter into this Consent Decree for the purpose of resolving any possible violations by EMW of the rule requiring provision of analog cellular service, Section 22.901(b) of the Commission’s Rules (“Rules”), 47 C.F.R. § 22.901(b), arising from EMW’s alleged failure to provide analog cellular service on the A-block cellular frequencies in Cellular Market Area (“CMA”) 615, the Pennsylvania 4-Bradford Rural Service Area (“RSA”).

### Background

2. On May 3, 2005, EMW’s counsel voluntarily met with the Commission’s Wireless Telecommunications Bureau to discuss EMW’s provision of analog cellular service. EMW related that it had initiated analog service in accordance with the Commission’s rules on September 6, 2002; however, because of significant financial hardship, EMW ceased providing analog service on June 5, 2004, when it deployed digital Global System for Mobile Communications (“GSM”) technology in the Pennsylvania 4-Bradford RSA.

3. EMW further related to the Wireless Telecommunications Bureau that it has entered into an Asset Purchase Agreement and a Spectrum Manager Lease Agreement (the “Lease”) with American Cellular Corporation (“American”), a subsidiary of Dobson Communications Corporation. Pursuant to those agreements, among other things, American will construct and begin providing analog service within six (6) months of the effective date of the Lease.

4. On June 30, 2005, in response to a recommendation from the Wireless Telecommunications Bureau, EMW’s counsel voluntarily contacted the Enforcement Bureau to relate the same information and to propose resolution of the analog cellular service issue by entering into a consent decree.

5. On July 13, 2005, counsel for EMW met with staff of the Enforcement Bureau to provide further details regarding the possible violation of the analog cellular service rule.

### Definitions

6. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) The “Commission” means the Federal Communications Commission;
  - (b) The “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
  - (c) “EMW” means Endless Mountains Wireless, L.L.C., the A-block cellular licensee in the Pennsylvania 4 – Bradford RSA (CMA615), its subsidiaries, affiliates and any successors or assigns;
  - (d) “Parties” means EMW and the Bureau;
  - (e) “Adopting Order” means the order of the Bureau adopting the terms and conditions of this Consent Decree;
  - (f) “Effective Date” means the date the Adopting Order is released by the Bureau;
  - (g) The “effective date of the Lease” means the date on which EMW and American both sign the lease.
  - (h) “Rules” means the Commission’s Rules found in Title 47 of the Code of Federal Regulations;

- (i) The "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 *et seq.*;
- (j) The "System" refers to EMW's cellular system, including the license WPSJ792, ancillary licenses, and facilities for the Pennsylvania 4-Bradford RSA; and
- (k) The "Lease" refers to the Spectrum Manager Lease Agreement between EMW and American.

### Terms of Settlement

7. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

8. The Parties agree that this Consent Decree shall become binding on the Parties on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final order of the Commission and any violation of the terms or conditions of this Consent Decree shall constitute a violation of a Commission order.

9. EMW acknowledges and agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

10. The Parties waive any rights they may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided that the Adopting Order adopts the Consent Decree without change, addition, modification or deletion.

11. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination of any compliance or noncompliance with the Act or the Rules. The Parties further agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, EMW does not admit or deny any liability for violating the Rules in connection with the matters that are the subject of this Consent Decree.

12. EMW agrees that it will make a voluntary contribution to the United States Treasury in the amount of twenty thousand dollars (\$20,000) within 30 calendar days after the Effective Date of the Adopting Order. Payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. The payment should reference the NAL/Acct. No. and FCC Registration Number (FRN) referenced above.

13. EMW agrees to bring its System into compliance with Section 22.901(b) of the Rules no later than six (6) months from the effective date of the Lease in accordance with the attached compliance plan.

14. EMW agrees to notify the Bureau of the effective date of the Lease no later than five days after the Lease has been signed.

15. The parties acknowledge and agree that this Consent Decree shall constitute a final settlement between EMW and the Bureau regarding any past violations of Section 22.901(b) of the Rules as well as any future violations of that rule occurring less than six months after the effective date of the Lease.

16. The Bureau agrees that it will not institute, on its own motion, any proceeding, formal or informal, take any action on its own motion, or recommend to the Commission any forfeiture or other sanction, against EMW for its past possible violations of Section 22.901(b) of the Rules or against EMW or American Cellular involving the Pennsylvania 4 - Bradford RSA for any future violations of that Rule occurring less than six months after the effective date of the Lease. Nothing in this Consent Decree shall prevent the Bureau from instituting investigations or enforcement proceedings against EMW in the event of any other alleged misconduct that violates this Consent Decree or any provision of the Act or the Rules.

17. EMW agrees that in the event it fails to comply with Section 22.901(b) of the Rules within six (6) months of the effective date of the Lease, it will make a voluntary contribution to the United States Treasury in the amount of \$50,000 for each one month period (or part thereof if the one month period is incomplete) that the violation continues. Each such voluntary contribution will be made within thirty (30) days of the beginning of each such one month period or part thereof. Payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. The payment should reference the NAL/Acct. No. and FCC Registration Number (FRN) referenced above.

18. The parties agree that, in the event any court of competent jurisdiction renders this Consent Decree invalid, the Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

19. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither EMW nor the Commission shall contest the continuing validity of the Consent Decree or Adopting Order. The Parties agree to comply with, defend and support the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void, or otherwise modify the Consent Decree or the Adopting Order.

20. EMW waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

21. EMW agrees that any violation of the Consent Decree or the Order adopting this Consent Decree will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

22. The Parties agree that any provision of this Consent Decree which conflicts with any subsequent rule, order of general applicability or other decision of general applicability adopted by the Commission will be superseded by such Commission rule, order or other decision.

23. This Consent Decree cannot be modified without the advance written consent of both Parties.

24. This Consent Decree may be signed in counterparts.

**FEDERAL COMMUNICATIONS COMMISSION  
ENFORCEMENT BUREAU**

By: \_\_\_\_\_  
Kris Anne Monteith  
Acting Chief, Enforcement Bureau

\_\_\_\_\_  
Date

**ENDLESS MOUNTAINS WIRELESS, L.L.C.**

By: \_\_\_\_\_  
William Schwaibold  
Manager

\_\_\_\_\_  
Date

## COMPLIANCE PLAN

Endless Mountains Wireless, LLC (“EMW”), is committed to full and complete compliance with the Federal Communications Commission’s (“Commission”) Rules (“Rules”) in connection with the operation of an analog service in the Pennsylvania 4 – Bradford RSA cellular system. In order to ensure such compliance, and in connection with the Consent Decree being entered into by the Enforcement Bureau of the Commission and EMW with respect to such compliance (the “Consent Decree”) will implement this Compliance Plan. Capitalized terms not otherwise defined herein and the term “effective date of the Lease” shall have the meanings assigned to them in the Consent Decree. The Compliance Plan will consist of four components.

1. EMW will require American to order the requisite equipment and interconnection facilities within two (2) months of the effective date of the Lease to achieve compliance with Section 22.901(b) of the Commission’s rules on the A-Block cellular frequencies in the Pennsylvania 4 – Bradford RSA.

2. EMW will require American to deploy analog cellular service in accordance with Section 22.901(b) of the Commission’s Rules on the A-Block cellular frequencies in the Pennsylvania 4 – Bradford RSA as soon as it is practicable to do so, but in no event later than six (6) months after the effective date of the Lease.

3. EMW will file a report at the end of the second month and again not later than the end of the sixth month (or within ten days of such earlier date as compliance has been achieved) following the effective date of the Lease that describes the progress and compliance of the terms and conditions of the Consent Decree.

4. EMW agrees to provide analog cellular service on the A-Block cellular frequencies in the Pennsylvania 4 – Bradford RSA for as long as such analog service is required by the Commission’s Rules and EMW is the licensee of the Pennsylvania 4—Bradford RSA.